

TRIBAL GAMING COMPACTS. EXCLUSIVE GAMING RIGHTS. CONTRIBUTIONS TO STATE. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

Tribal Gaming Compacts. Exclusive Gaming Rights. Contributions to State. Initiative Constitutional Amendment and Statute.

- Upon request by federally-recognized Indian tribe, Governor must execute renewable 99-year gaming compact.
- Grants exclusive tribal gaming rights; no limits on number of machines, facilities, types of games on Indian land.
- Tribes contribute percentage of net gaming income, based on prevailing state corporate tax rate, to state fund.
- Contributions cease if non-tribal casino-type gaming is permitted.
- Contributions are in lieu of any other fees, taxes, levies.
- Requires off-reservation impact assessments, public notice/comment opportunities before significant expansion or construction of gaming facilities.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Unknown effect on payments to the state from Indian tribes. The potential increase or decrease in these payments could be in the tens of millions to over a hundred million dollars annually.
- Likely reduction in tribal payments to local governments, potentially totaling in the millions of dollars annually.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Indian Tribes in California. Under federal law, Indian tribes in California are considered sovereign nations. As a result, tribes are not required to pay most federal, state, or local taxes (such as income, property, or sales tax). In addition, tribes are largely exempt from state laws, including California environmental and workplace laws.

Gambling on Tribal Lands. Federal law and the State Constitution allow tribes to conduct gambling on Indian land if they enter into agreements with the state. These agreements, called compacts, lay out the conditions under which the gambling may occur. Under current compacts, tribes may operate slot machines and card games, such as twenty-one. Other Nevada-style casino games such as craps and roulette are prohibited. Currently, 64 tribes have compacts and operate 53 casinos with a total of more than 54,000 slot machines.

1999 Compacts. Most tribes signed their current compacts in 1999. Under these compacts, a tribe may operate up to two facilities and up to a total of 2,000 slot machines. In exchange, tribes make some payments to the state which can only be used for specified purposes (such as for making payments to tribes that either do not operate slot machines or operate fewer than 350 machines). These payments total over \$100 million annually. Under these compacts, tribes are required to prepare an environmental study analyzing the impact on the surrounding area of any new or expanded gambling facility. These compacts will expire in 2020.

2004 Compacts. In the summer of 2004, five tribes signed amendments to their 1999 compacts, and these revised

agreements were approved by the state. Under these new agreements, these tribes may operate as many slot machines as they desire. In exchange, these tribes make a specified payment annually to the state, with additional payments for each slot machine added to their facilities. Payments to the state from these revised compacts are expected to total in the low hundreds of millions of dollars annually. Unlike the payments required by the 1999 compacts, the state can use these payments for any purpose. The newer compacts also require the tribes to (1) prepare more detailed environmental studies, (2) negotiate with local governments regarding payments addressing the impacts of new gambling facilities on the local communities, and (3) follow other provisions related to patron disputes, building codes, and labor relations. These new agreements expire in 2030, ten years later than the 1999 compacts.

PROPOSAL

This measure amends the State Constitution and state statutes to require the Governor to amend an existing compact or enter into a new compact with any tribe within 30 days of a tribe's request. Any such compact would have to include certain provisions, as discussed below.

Gambling Revenues. Under the provisions of the measure, a tribe entering into an amended or new compact would pay the state a percentage of its net income from gambling activities. The percentage of net income paid would be equivalent to the corporate tax rate paid by a private business (currently 8.84 percent). The measure specifies that the state could spend these revenues for any purpose. In the event that the tribes lose their exclusive right